

**Exhibit 21 to Plaintiff's
Supplemental Opposition to
Defendant Benton Express, Inc.'s
Motion for Summary Judgment**

Roby

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1 THIS IS ONLY A ROUGH DRAFT.

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4 Q. sir, could you give us your full name?

5 A. Robert Carl Tynes.

6 Q. And where do you reside?

7 A. 183 Overlook way, Carrollton, Georgia.

8 Q. And your driver's license number?

9 A. 035044419.

10 Q. Your date of birth?

11 A. 7/23/48.

12 Q. Social security number?

13 A. 266-82-0045.

14 Q. Sir, you are here today in a case
15 called Roby verses Benton; is that correct?

16 A. Yes, sir.

17 Q. And I issued relating to this
18 deposition a notice of videotaped
19 deposition, all be it we are not taking a
20 videotape. But have you seen this notice of
21 deposition?

22 A. Yes, sir, I have.

23 Q. And do you have it in front of you
24 today?

25 A. I do.

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1 Q. Could I look at it?

2 A. Yes.

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8 Q. And I gather in your accident
9 reconstruction you determined that he ran
10 into a driver because he was fatigued?

11 A. Correct.

12 Q. And I guess that you also supported
13 that testimony by concluding that reason
14 being he was fatigued because he had
15 violated the hours of service and had been
16 driving an excessive number of hours?

17 A. That's correct.

18 Q. And the number of hours you told me
19 you said earlier, but I don't remember, how
20 many you gathered he had been driving?

21 A. He had been operating in excess of 24
22 hours.

23 Q. I gather from your experience from
24 looking at your case list that it would be
25 your position that it is very important to

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1 insure that drivers are operating within the
2 regulations as it relates to hours of
3 service?

4 A. Yes, sir.

5 Q. And would it be fair to say one of the
6 main reasons it is important to operate
7 within the federal regulations concerning
8 hours of service is because you don't want
9 fatigued drivers to go out there and injure
10 or kill people on the road?

11 A. That's correct.

12 Q. And would it be fair to say that Roby
13 trucking companies in your opinion appears
14 from this case have a duty to ensure their
15 drivers are complying with hours of service
16 regulations?

17 A. Yes, sir, they do.

18 Q. And they have a duty to the motoring
19 public because you don't want tired and
20 sleepy drivers killing people on the road?

21 A. That's correct.

22 Q. And, in fact, not only that -- and, in
23 fact, you've worked on several cases where a
24 driver's violation of hours of service rules
25 directly contributed to them being fatigued

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1 or sleepy and causing an accident where
2 people had serious injuries?

3 A. Yes, sir.

4 Q. Would you agree that I guess it's
5 obvious you would agree that trucking
6 companies have a duty to insure that their
7 drivers are following Federal Motor Carrier
8 Safety Regulations?

9 MR. ROSS: Object to the form.

10 A. Yes, sir, that's correct.

11 Q. And they have a duty to ensure that
12 their drivers are not violating hours of
13 service?

14 A. Yes, sir. They have a duty to have a
15 monitoring program.

16 Q. And would that monitoring program
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21 if you're going to go out and try to track
22 him in cars that you go and meet so you can
23 know you all covered the area?

24 A. I don't know. I don't know what was
25 in their mind and what they decided to do or

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1 not to do. I do know that trying to do
2 something like that is like looking for a
3 needle in hay stack. So I would imagine
4 after a while, they discovered that there
5 isn't much of an opportunity or a chance for
6 us to discover where he is doing this.

7 Q. I gather what you think is that the
8 time they spent there was essentially
9 futile?

10 A. Well, they tried. And I give that to
11 them. It's more than what I think most
12 carriers would do. But, yeah, looking for a
13 driver in a fashion like that is futile.

14 Q. Objection, non-responsive. Would you
15 agree that their attempt was futile?

16 A. I just told you.

17 Q. Yes?

18 A. That I thought that they finally came
19 to the realization it was probably futile.

20 Q. Okay. Do you know of any technology
21 that could have allowed them to locate and
22 pinpoint his location and remove him from
23 the vehicle if they wanted to?

24 A. If they had employed certain
25 technologies, then certainly there's

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1 technologies to locate a truck.

2 Q. And what type of technologies is that?

3 A. Well, like Qualcomm or something like
4 that.

5 Q. GPS tracking, not just Qualcomm,
6 because Qualcomm is a particular brand?

7 A. Yeah, Qualcomm is a brand.

8 Q. And what you're talking is the GPS
9 tracking feature of Qualcomm?

10 A. You have to have a transmitter to go
11 along with the GPS feature. So it takes
12 something like Qualcomm. You know, like I
13 said, GPS a series of satellites owned by
14 the government. They're not owned by
15 Qualcomm.

16 Q. Right. I'm not trying to get
17 technical with you. All I was saying is:
18 You are talking about the ability to track
19 through the GPS system no matter how it
20 works, whether it's a satellite or whatever
21 you was explaining to me, but you are
22 talking about Qualcomm and other systems
23 would allow you to track tractor trailers?

24 A. Yeah, if it's on.

25 Q. And some of the trucking companies out

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1 there on the roads today have the tracking
2 feature?

Roby

17 an organization that insures a large number
18 of truck carriers?

19 A. I don't know how many they insure, but
20 I understand that they are.

21 MR. ROSS: Liberty Mutual.

22 Q. Yeah, Liberty Mutual. I'm sorry. I'm
23 having a flashback from other cases I've
24 handled.

25 A. I was expecting to hear Liberty

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1 Mutual, and I didn't even hear that.

2 Q. And I was expecting to say it. But
3 Liberty Mutual, do you understand them to be
4 the largest insurer of truck carriers?

5 A. I don't know that to be true.

6 Q. Are they big?

7 A. They are a big insurer.

8 Q. You do agree and we talked about this
9 earlier, without saying necessarily
10 communication policy or otherwise, but do
11 you agree that all carriers including Benton
12 has a duty to implement reasonable safety
13 policies and procedures to protect the
14 motoring public?

15 A. Sure.

16 Q. And you agree that they have a duty to
17 enforce safety policies and procedures to
18 make sure drivers are not on the road sleepy
19 and fatigued?

20 A. Yes, sir, I do.